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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,852	02/08/2002	Gordon Haas	HAAS-1	9666

7590 02/24/2004

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805 THIRD AVENUE
NEW YORK, NY 10022

EXAMINER

MILLER, BENA B

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,852

Applicant(s)

HASS GORDON

Examiner

Bena Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dodge in view of Roh.

Dodge teaches most of the elements of the claimed invention including a plurality of geometrically shaped thin panels (12, 14, 18) having a soft texture (col. 2, par. 3) and providing a surface of loops (col. 6, lines 3-20), a flap (22; col. 3, lines 39-46; fig. 1 and 1a), hook strips positioned on the exposed surface (col. 5, lines 6-16), resilient geometrical shaped panels (col. 2, lines 19-21), flexible geometrical shaped panels, angular shape geometrical shaped panels, triangle shaped panels (fig. 1 and 1a), looped cover panels (col. 6, lines 3-19), integrally attached flaps (fig. 1 and 1a).

However, Dodge fails to teach the fold-away flap integrally formed with each of the panels. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the fold-away flap formed integrally with each of the panels, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Regarding claim 2, Dodge fails to teach the panels comprising foam rubber. Roh teaches in figures 1-8 a construction set including panels made of foamed rubber (col. 2, lines 55-58). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use foamed rubber as taught by Roh for the panels of Dodge for the purpose of preventing injuries if the panels are thrown or stepped on (col. 2, lines 60-63).

Regarding claims 5 and 6, Dodge fails to teach an outer covering. Roh teaches that the panels may include a fabric cover (col. 3 par. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply an outer covering as taught by Roh to the panels of Dodge for the purpose of attaching fasteners thereto (col. 3, par. 2).

Regarding claim 10, Dodge fails to teach the panels' width between about one-half inch and about one inch. Dodge teaches that it is known to have the panels a particular width (col. 4, par. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made have the panels' width between about one-half inch and about one inch as taught by Dodge, since Dodge states at col. 4, lines 19-21 that such a modification would be large enough to be difficult for infants and small children to put completely in their mouths.

Response to Arguments

Applicant's arguments filed 01/21/04 have been fully considered but they are not persuasive. In response to applicant's remarks that Dodge fails to teach the fold-away

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flap integrally formed with each of the panels, it would be obvious to make the flap of Dodge integrally formed with each of the panels for the reasons noted above.

In response to applicant's remarks that Dodge fails to teach "the hook strips positioned on the exposed surface, wherein one of the panels attaches to another of the panels by use the hook strips when the flap is in the first position to create a movable hinge, and wherein the flap of the one panel secures to the same panel when the flap is in the second position to create a rigid attachment therebetween", Dodge teaches in col. 3, lines 39 –47 construction piece 12-20 and connector strip 22 has on one side loop pile fastener material and on the opposite side hook fastener material. The connector strips 22 act as bandage in connecting other pieces together. Further the construction pieces are adhered mechanically when pressed together. Although, Dodge teaches the structures built are self-supporting without being rigid; however, Dodge does teach that the construction pieces and connector strips are semi-rigid.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Examiner
Art Unit 3712

bbm
February 21, 2004